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Appl. No.: 09/765,789
Inventor: Timothy L. Robinson
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REMARKS

In view of the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding rejections, and that they be withdrawn.

Rejections Under 35 U.S.C. §103

The Examiner rejected claims 1-7, 9-24, 26-36, 49-55, and 58 as being unpatentable over U.S. Patent No. 6,598,023 to Drummond et al. ("Drummond") in view of U.S. Patent No. 5,914,472 to Foladare et al. ("Foladare"). As noted by the Examiner with respect to example claim 1, Drummond teaches verifying an identity of a user through an analysis of biometric data. *See*, col. 12, line 63 to col. 13, line 15 of Drummond. The Examiner then noted that Drummond was restricted to users that are primary account holders and did not address the possibility of third-party access to accounts.

Foladare was introduced to address the deficiencies of Drummond. In general, Foladare teaches the use of ancillary credit or debit transactions cards that can be distributed, for example, by a parent to a child. In this scenario, the parent can specify spending limits for the ancillary transaction card. When the child presents the ancillary transaction card to a merchant for payment, the merchant swipes the card and contacts a central computer for card authorization. If the credit limit of the ancillary card holder has been exceeded according to the database, the parent can be contacted by the central computer for authorization of an increase in the credit limit.

Foladare's third-party account access is restricted to the usage of ancillary cards. These ancillary cards are issued for use on a single account. As such, these ancillary cards provide a dedicated access mechanism to a single credit or debit facility. Authorization is therefore based on the identity of the card.

In Applicant's example claim 1, authorization is based on the identity of the person. In example claim 1, a biological sample is first received from the third party. This biometric data is matched to registered biological identification data in the database to verify the identity of the third party. The general process of registering personal information, biometric data, and account information in a user record is described at paragraphs 37-41 of Applicant's specification.

Once identified, the third party can pay for a transaction using an account to which the third party has access. The set of accounts to which the third party has access can include accounts for which the third party is the primary account holder and therefore has unlimited access and accounts for which the third party is not the primary account holder and therefore has limited access. In other words, the third party can have access to his own accounts as well as accounts held by others. In this framework, the biometric access to the transaction system enables flexible usage of accounts. This is in sharp contrast to the ancillary card access of Foladare, which is limited to a particular account that is tied to the ancillary card.

As claimed, the process of determining accounts to which the third party has access occurs after the identity of the third party is biometrically identified. This tokenless biometric authorization process is in contrast to Foladare or any other token-based authorization process, which relies on the token as the link between authorized accounts. Thus, even assuming that the ancillary cards of Foladare can be used to access multiple accounts, the basis for determining accessible accounts is the information retrieved from the presented card, not a tokenless biometric identification using registered biometric data in a database.

As demonstrated, the card-based access disclosed by Foladare is entirely distinct from Applicant's claimed user-based biometric access. Thus, even assuming that Drummond teaches all that the Examiner alleges, the combination of Drummond and Foladare would not produce Applicant's claim 1. Applicant further submits that the Examiner has not provided a prima facie case of obviousness in showing how the conventional biometric account access of Drummond would be modified using Foladare's third-party ancillary card access to produce Applicant's claimed invention. In particular, Applicant notes that the Examiner has not provided any evidence to suggest how Drummond and Foladare would be combined. The Examiner has simply relied on the idea of third-party account access presented by Foladare to modify Drummond in the way Applicant has claimed. This is an improper basis for combine the tokenless system of Drummond with the token-based system of Foladare. For at least these reasons, Applicant submits that the rejection of claim 1 is traversed.

Claims 18 and 30 recite similar features as claim 1. The rejection of claims 18 and 30 is therefore traversed for at least the same reasons noted above. Claims 2-7, 9-17, 19-24, 26-29,

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and 31-36 depend either directly or indirectly to one of independent claims 1, 18, 30. Thus, the rejection of claims 2-7, 9-17, 19-24, 26-29, and 31-36 is traversed for at least the same reasons noted above.

Claim 58 recites a process by which registered biometric data is transmitted from a central database to a merchant location for a biometric comparison at the merchant location. Significantly, the location at which the biometric comparison is performed is different from the location where the registered biometric data is stored. Applicants submit that Drummond does not disclose such a local matching process. Thus, Applicant submits that the combination of Drummond and Foladare cannot produce Applicant's claimed invention. The rejection of claim 58 is therefore traversed for at least this reason.

Claim 49 recites a process by which a biometrically identified primary account holder can set up account access by a third party. In this process, the primary account holder would provide the system identification number corresponding to the third party. This information enables the system to configure tokenless biometric access by the third party to an account controlled by the primary account holder. In other words, the claimed process is based on user records in a database not issued tokens.

In the rejection of claim 49, the Examiner relied on the evidence presented in the rejection of claim 58. As was shown above, claim 58 is directed to a local biometric matching process. Thus, claim 58 is substantively distinct from claim 49. Applicants therefore submit that the rejection of claim 49 is based on evidence that was directed to a different aspect of Applicant's invention. For at least this reason, the rejection of claim 49, as well as claims 50-55 that depend either directly or indirectly from claim 49, is traversed.

The Examiner rejected claims 8 and 25 as being unpatentable over Drummond and Foladare in view of U.S. Patent No. 6,434,403 to Ausems et al. This rejection incorporates the rejection of claims 1 and 18 from which they depend, respectively. Thus, for at least the reasons noted above with respect to claims 1 and 18, the rejection of claims 8 and 25 is traversed.

Finally, the Examiner rejected claims 37-39, 56 and 57 as being unpatentable over Drummond and Foladare in view of U.S. Patent No. 6,422,462 to Cohen. This rejection incorporates the rejection of claims 30 and 49 from which they depend. Thus, for at least the

reasons noted above with respect to claims 30 and 49, the rejection of claims 37-39, 56 and 57 is traversed.
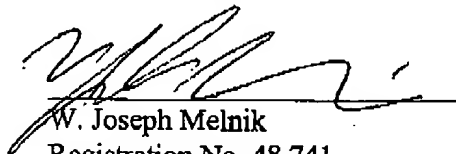
Conclusion

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections, and that they be withdrawn and claims 1-39 and 49-58 be passed to issue. The Examiner is invited to telephone the undersigned representative if an interview might be useful for any reason.

Respectfully Submitted,

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